

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TAMIKA VINCENT,

Plaintiff,

v.

E.C.R. SERVICES, INC., DAIMLER  
CHRYSLER LLC.

Defendants.

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No. 06-cv-4262

**MEMORANDUM**

Presently pending is Defendant E.C.R. Services, Inc.'s (hereinafter "ECR") Motion to Dismiss (Dkt. # 6), and the response thereto. For the following reasons, Defendant's Motion will be denied.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

Plaintiff filed the instant action against Defendant ECR, a repossession agency that was retained by co-Defendant Daimler Chrysler, LLC, an automobile manufacturer, to repossess a vehicle purchased by Plaintiff's former fiancée. Plaintiff claims that ECR violated the Fair Debt Collection Practices Act (hereinafter "FDCPA"), 15 U.S.C. § 1692, in attempting to secure payment of the automobile debt owed by Plaintiff's former fiancée. Defendant claims that, as a repossession agency attempting to repossess property which their client had a security interest in, they are not subject to the FDCPA.

**II. DISCUSSION**

Under Federal Rule of Civil Procedure 12(b)(6) a court may dismiss a complaint for failure to state a cause of action only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations. Swierkiewicz v. Sorema N.A., 534 U.S. 506, 122 S.Ct 992, 998 (2002) (quoting Hishon v. King & Spalding, 467 U.S. 69, 73, 104 S.Ct. 2229 (1984)). The court "must take all the well pleaded allegations as true and construe the complaint in the light most favorable to the plaintiff." Colburn v. Upper Darby Twp., 838

F.2d 663, 665-66 (3d Cir. 1988). In Swierkiewicz, the United States Supreme Court addressed the liberal pleading standards set forth in Fed.R.Civ.P. 8(a)(2), noting that Fed.R.Civ.P. 8(a)(2) only requires "a short and plain statement of the claim showing that the pleader is entitled to relief." Swierkiewicz 122 S.Ct. at 998-999. The Supreme Court further noted that the statement of facts must simply "give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests." Id. at 998. (quoting Conley v. Gibson, 355 U.S. 41, 47, 78 S.Ct. 99 (1957)).

Plaintiff's complaint alleges that Defendant engaged in debt collection activities as defined by the FDCPA, through a course of conduct that included repeated phone calls and threats in order to attempt to secure the debt owed by Plaintiff's former fiancée. Defendant ECR's assertion that it was solely engaged in repossession activity is not appropriately considered at this stage. Taking Plaintiff's allegations as true, Defendant's actions would be covered under the FDCPA. Therefore, Defendant's Motion will be denied. An appropriate order follows.

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**ORDER**

**AND NOW**, this 8th day of January, 2007, **IT IS HEREBY ORDERED** that Defendant's Motion to Dismiss is **DENIED**.

**BY THE COURT:**

s/Clifford Scott Green

**CLIFFORD SCOTT GREEN, S.J.**